

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ROSLYN LA LIBERTE,

Case No.: 1:18-cv-05398-DLI-VMS
ECF Case

Plaintiff,

-against-

JOY REID,

Defendant.

**AFFIDAVIT IN SUPPORT OF
DEFENDANT'S MOTION TO
DISMISS AND TO
STRIKE**

JOHN H. REICHMAN, being duly sworn, deposes and says:

1. I am a member of Wachtel Missry LLP, attorneys for defendant Joy-Ann Reid, and submit this affidavit in support of the defendant's motion to: (i) dismiss plaintiff Roslyn La Liberte's defamation claim under Federal Rule 12(b)(6) and California's Anti-SLAPP Statute (strategic lawsuit against public participation), CA, CIV §425.16 (the "Anti SLAPP Statute" or the "Statute"); and (ii) award defendant her attorney's fees pursuant to the Anti-SLAPP Statute.

2. The facts set forth herein are based on documentary and digital evidence I have reviewed.

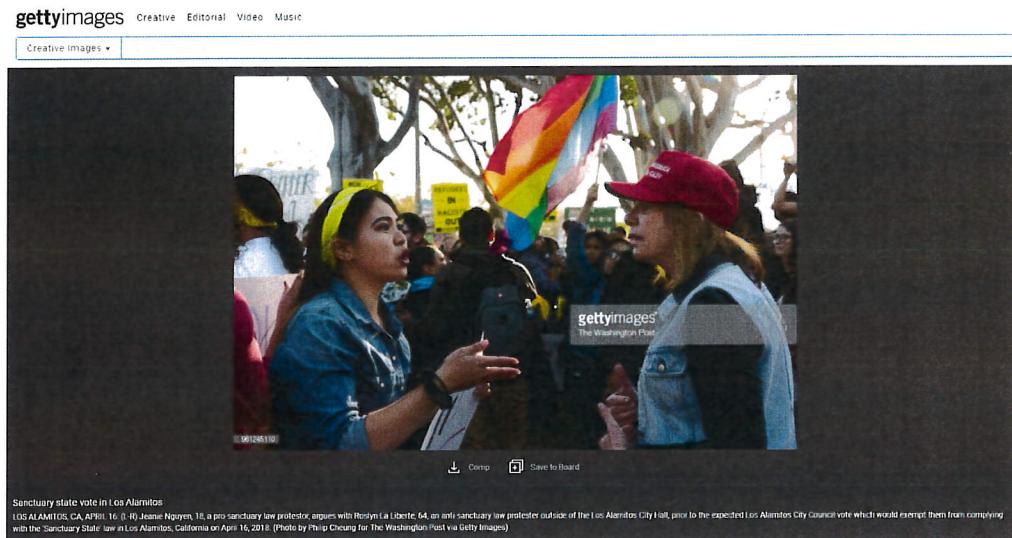
La Liberte Was An Anti-Immigrant Activist

3. The Amended Complaint alleges that on June 25, 2018, Ms. La Liberte attended the City Council Meeting in Simi Valley, California "to provide her opinion on California's sanctuary law." (¶ 35). She is described as "passionate about this country's immigration policies." (*Id.*, ¶ 33).

4. Ms. La Liberte is an anti-immigrant activist. In 2018, anti-immigrant activists were urging California cities and towns to take positions opposing the "Sanctuary State" Bill (or "SB 54"), the California state law that limits cooperation between California law enforcement officials

and federal immigration authorities. La Liberte was one of those activists and had become one of the faces of the SB 54 opposition. On April 16, 2018, Ms. La Liberte was in Los Alamitos, California protesting SB 54. A widely circulated photograph (below) was taken that day of Ms. La Liberte with the caption:

Jeanie Nyuyen, 18, a pre-sanctuary law protester, argues with Rosalyn La Liberte, 64, an anti-sanctuary law protester outside of the Los Alamitos City Hall.



5. On May 13, 2018, the picture of a La Liberte at Los Alamitos was reprinted in a front-page Washington Post article, detailing how politically charged SB 54 was. A copy of the Washington Post article is annexed hereto as **Exhibit A**.

6. On May 22, 2018, the Southern Poverty Law Center (“SPLC”) issued a report entitled “Racism rampant at California City County meetings on sanctuary policies.” A copy of the report is annexed hereto as **Exhibit B**. The first paragraph of the SPLC report states:

For the past two months, a campaign orchestrated by national anti-immigrant hate group the Federation for American Immigration Reform (FAIR) and its legal arm the Immigration Reform Law Institute (IRLI) has mobilized a small but vocal group of activists hell-bent on pushing city council members in Orange County, and other parts of southern California, to take a stance against the state’s sanctuary policies.

The report went on to state:

FAIR has an almost four decades-old track record of racism, starting with its founder, white nationalist John Tanton who wrote in 1993, “I’ve come to the point of view that for European-American society and culture to persist requires a European-American majority, and a clear one at that.” . . .

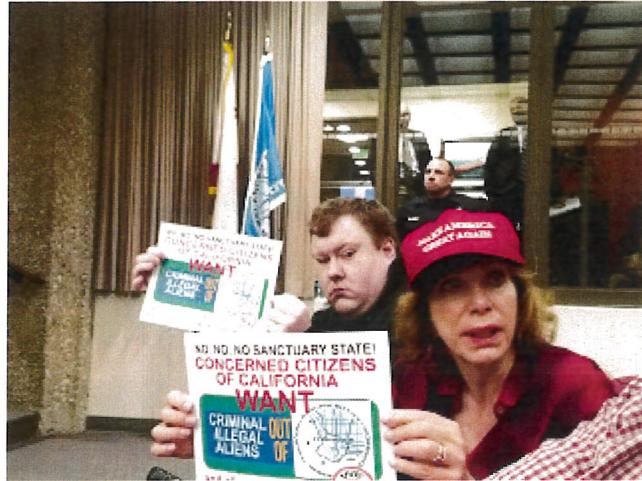
FAIR is also quiet on the fact that its orchestrated campaign has **whipped a small band of anti-sanctuary activists from California and elsewhere into a frenzy, with this group traveling from city to city on a nightly basis and stoking racial tensions at city council meetings.** . . . “Anti-sanctuary people showing at city council meetings in OC have become more aggressive and they feel more emboldened to launch racially charged slurs. They have become more aggressive that at times they have physically confronted young people attending city council meetings,” said Perrea. (emphasis added).

7. We do not know if Ms. La Liberte was a member of FAIR or other hate groups.

We do know that La Liberte was one of the anti-immigrant activists who went from city to city throughout California protesting SB 54.

8. Publicly available photographs and recordings show that Ms. La Liberte has testified against SB 54 at various city council meetings around California.

9. Immediately below are photographs of Ms. La Liberte taken before she testified at a Torrance, California City Council meeting to oppose SB 54.
<http://aschaper1.blogspot.com/2018/05/citizens-to-torrance-city-council.html> (last visited Dec. 15, 2018).



10. Immediately below are photographs of Ms. La Liberte taken before she testified at the Hawthorne, California City Council meeting. <http://aschaper1.blogspot.com/2018/05/citizens-to-hawthorne-city-council.html> (last visited Dec. 15, 2018).



A videotape of the Hawthorne City Council meeting shows Ms. La Liberte testifying at the 38:47 mark. http://hawthorne-ca.granicus.com/MediaPlayer.php?view_id=2&clip_id=520 (last visited on Dec. 14, 2018).

11. Ms. La Liberte also testified at a Hermosa Beach Council Meeting against SB 54. A videotape of that meeting shows Ms. La Liberte testifying at the 3:07:20 mark. http://hermosabeach.granicus.com/MediaPlayer.php?view_id=6&clip_id=4701 (last visited on Dec. 14, 2018).

12. On June 25, 2018, Ms. La Liberte testified against SB 54 at the Simi Valley Council meeting. http://simivalley.granicus.com/MediaPlayer.php?view_id=5&clip_id=2102 (last visited on Dec. 15, 2018).

13. Upon information and belief, Ms. La Liberte testified before the Thousand Oaks California City Council against SB 54 on April 10, 2018. The basis for that belief are the City Council Minutes annexed hereto as **Exhibit C**.

14. Ms. La Liberte has also attended other anti-immigration events such as a July 4, 2018 rally in Century City, California. Photographs of the rally are included below along with a link a blog site discussing an apparent confrontation that Ms. La Liberte had at the rally. <http://aschaper1.blogspot.com/2018/06/freetommy-rally-in-century-city-photos.html> (last visited on Dec. 15, 2018).





The Publications Regarding Ms. La Liberte

15. The Amended Complaint contains the following allegations:

- “At the time Reid retweeted Mr. Vargas’s tweet, it had not received much attention. After Reid used her megaphone to rebroadcast Mr. Vargas’s tweet, it went viral.” (¶43).
- “Reid was the very first individual to put the alleged words – ‘[y]ou are going to be the first deported’ you ‘dirty Mexican!’ – in La Liberte’s mouth.” (¶49).
- “As a result of Reid’s false Publications, the public obtained La Liberte’s home and business address and business name, and obtained access to La Liberte’s business and personal phone, e-mail address, business website, and Facebook page. This is how La Liberte began receiving the hate messages.” (¶92).

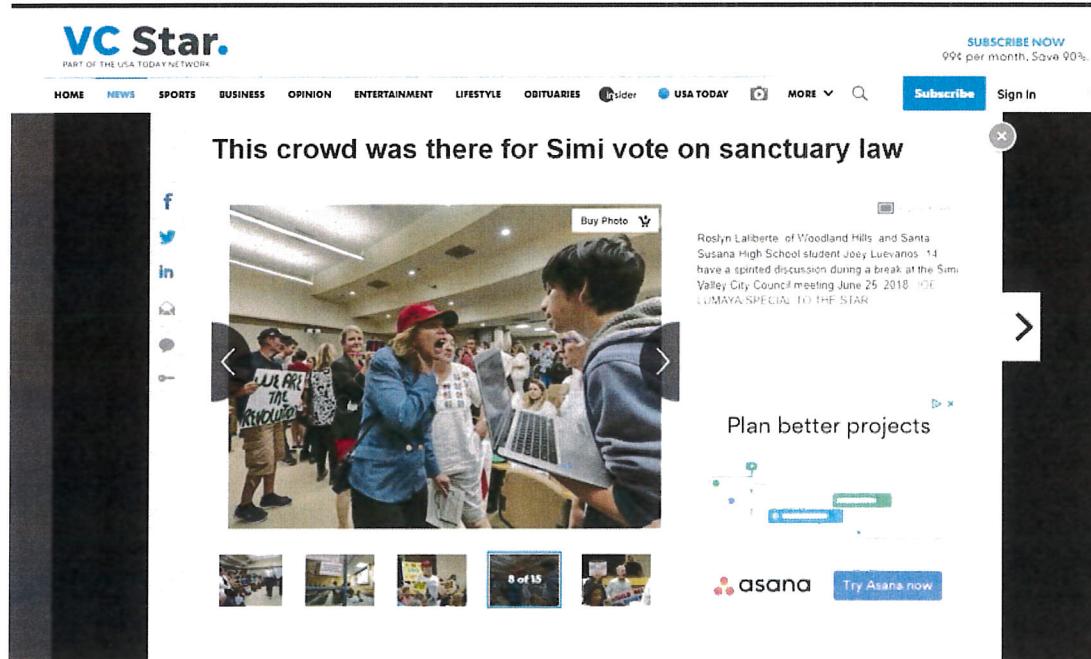
16. All of these allegations, which are central to Ms. La Liberte’s claims, are demonstrably false as shown by the following evidence and in the accompanying affidavit of Davian Hoffman (the “Hoffman Affidavit”).

17. As the Amended Complaint admits, racial slurs were made at the Simi Valley Council meeting held on June 25, 2018 (the “Council Meeting”), which was reconsidering its prior decision to support the Trump administration’s lawsuit against SB 54. (¶46).

18. On June 26, 2018, the Ventura County Star published photographs of the Council Meeting. One of the photographs was of Ms. La Liberte apparently screaming at 14-year-old

Joseph Luevanos with her hands at her throat in a menacing gesture (the “Photograph”). It had this caption:

Roslyn La Liberte, of Woodland Hills, and Santa Susana High School Student Joey Luevanos, 14, have a spirited discussion during a break at the Simi Valley City Council meeting June 25, 2018, JOE LUMAYA/SPECIAL TO THE STAR



19. On June 26, 2018, Ruth Luevanos, Joseph Luevanos’s mother, tweeted:

A screenshot of a Twitter post. The user is @rluevanos, with the handle luv2teachss. The tweet reads: "Sad to hear Trump supporters boozing my 14 year old son, telling him he'll "be deported," "go back to Mexico" and calling Mexicans "rapists." Proud of 350+majority residents who DID respect my son's right to be an active citizen." The post has 37 retweets and 101 likes. Below the tweet is a reply from Henry Stern (@HenrySternCA) with a message of support for dreamers.

20. Both the racism displayed at the Council Meeting and in the Photograph were quickly commented upon and shared on social media. On June 28, 2018 at 12:30 p.m., Emily

Weisberg tweeted the Photograph of La Liberte alongside of a photograph of angry white protestors taken when Little Rock High School was desegregated in 1957. The tweet stated:

 ((Emily Weisberg))
@EmilyWeisberg

Follow

Top: Hazel Massery screams at Elizabeth Eckford, of the #LittleRockNine. as Eckford and 8 other brave young men and women, desegregate Little Rock High. 1957.
Bottom: #RoslynLaLiberte screams at a 14 yr old boy at a #SimiValley meeting re #SB54. 2018. But please, #remain civil.



10:39 AM - 28 Jun 2018

21. Other persons also quickly identified and “doxed”¹ Ms. La Liberte by calling out her and her business by name, publishing her email, address, and phone numbers, and widely circulating the photographs taken of Ms. La Liberte at Simi Valley and Los Alamitos. On June 28, 2018, Resistance Northridge, a progressive grassroots political group, tweeted the Photograph (the “Resistance Northridge tweet”) with this comment:

¹ The term “dox” or “doxing” refers to the Internet-based practice of researching and broadcasting private or identifiable information about an individual or organization. See <https://en.wikipedia.org/wiki/Doxing> (last visited on Dec. 14, 2018).

This horrible woman is Roslyn La Liberte. She yelled at this 14 yr old boy at a Simi Valley City Council mtg who was there to talk about immigration & supporting SB54. This MAGA zealot racist runs RC Design Construction in Woodland Hills. BOYCOTT RC DESIGN <https://t.co/ry5rrTGaB2> <https://t.co/BJYyIUSNyG>

22. As detailed in the accompanying affidavit of Davian Hoffman, the Resistance Northridge tweet that had originally gone viral has since been deleted. See Hoffman Aff., ¶ 7.

23. It was, for example, retweeted on June 28, 2018, by the singer and actress, Nancy Sinatra to her 201,000 Twitter followers with this comment:



Nancy Sinatra 

@NancySinatra

Follow

Roslyn La Liberte represents what's wrong with America. [twitter.com/TRNorthridge/s ...](https://twitter.com/TRNorthridge/status/975000000000000000)

This Tweet is unavailable.

6:50 PM - 28 Jun 2018

587 Retweets 1,147 Likes



124 587 1.1K

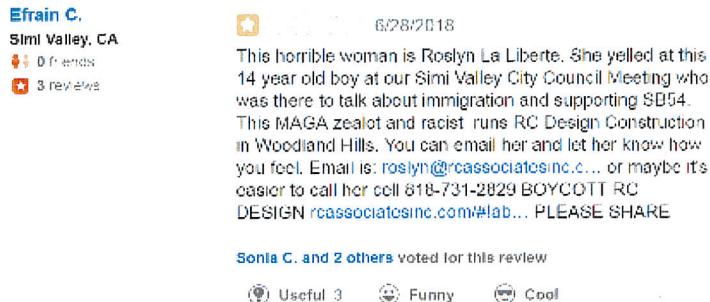
24. The famous rapper, Immortal Technique, also retweeted the Resistance Northridge tweet to his **269,000** Twitter followers on June 28, 2018.

A photograph showing a group of people in what appears to be a public meeting or rally. In the foreground, a woman wearing a red baseball cap and a light-colored jacket is looking towards the right. Behind her, another person is holding up a sign that reads "LULU PRO TAK". The background is filled with other individuals, some of whom are wearing protest-related clothing or signs. The setting looks like a large hall or auditorium.

25. On June 28, 2018, YELP reviews were posted identifying Ms. La Liberte and targeting her Woodlands California business, RC Construction Design. Elise L. posted:



26. Efraim C from Simi Valley wrote:



27. On June 28, 2018 at 8.52 p.m., Alan Vargas tweeted the Photograph of Ms. La Liberte (hereinafter referred to as the “Vargas tweet”). The Vargas tweet also said “you are going to be the first deported” and “dirty Mexican” were “some of the things they yelled at this 14 year old boy.” Vargas, added, “spread this far and wide **this woman** needs to be put on blast.” (emphasis added). See Hoffman Aff., ¶ 9.

28. As set forth in the accompanying Hoffman Affidavit, the Vargas tweet quickly went viral. The snapshot of the Vargas tweet below was located and published by Canada Free Press, in an article dated on July 3, 2018 by Arthur Christopher Schaper. It shows that, at the time of the screenshot, the post already had at least 78,300 likes and 76,900 comments.

<https://canadafreepress.com/article/social-media-mob-defames-innocent-trump-supporter> (last visited on Dec. 15, 2018).



Alan Vargas
@TheAlanVargas



" You are going to be the first deported"
" dirty Mexican "

Were some of the things they yelled they yelled at this 14 year old boy He was defending immigrants at a rally and was shouted down

Spread this far and wide this woman needs to be put on blast!

8:12 PM - Jun 29, 2018

37 1K 76,666 people have liked this

29. On June 29, 2018 at 1:50 p.m., actress and three-time Emmy winner Nadine van der Velde retweeted the Resistance Northridge tweet and posted the Photograph of La Liberte along with the 1957 Little Rock photo and Nazis and added the following statement:

Nadine van der Velde • [Follow](#)

"You're going to be the first deported! Filthy Mexican!" screams **#RoslynLaLiberte** in a hate filled photo reminiscent of other iconic hate filled images. History is being written. Roslyn LaLiberte has crystallized her place on the wrong side of history for future generations .

Day at the Simi Valley City Council Meeting where there is a picket against the proposed CRIS. This MEET & Greet and protest. RC Design Construction in Woodland Hills. BOYCOTT RC DESIGN. http://www.crisocialistic.com/#about_us PLEASE SHARE #simivalley city council voted 4-0 to side with Jeff Sessions against Presid. More actions to come.

11:50 AM - 29 Jun 2018

2,088 Retweets 2,496 Likes

191 2.1K 2.5K

30. The van der Velde tweet was retweeted at least 2,088 times, including by the actress Debra Messing.



31. On June 29, 2018 at 1:10 p.m., David Hogg, the anti-gun and Parkland student, retweeted the Vargas tweet (screenshot below). Hogg had 900,000 followers.



32. Ms. Reid retweeted the Vargas tweet on June 29, 2018 at 2:55 p.m. (the “Reid retweet”). A time-stamped screenshot of Vargas’ comment on Ms. Reid’s retweet of the Vargas tweet is captured in the screenshot below.

← Joy Reid 140K Tweets

Tweets Tweets & replies Media Likes

Joy Reid Retweeted

Alan Vargas @TheAlanVargas 17h
"You are going to be the first deported"
"dirty Mexican"

Were some of the things they yelled they yelled at this 14 year old boy. He was defending immigrants at a rally and was shouted down.

Spread this far and wide this woman needs to be put on blast.

1,731 16.3K 14.3K ⚡

Joy Reid @JoyAnnReid 4h
Good question.

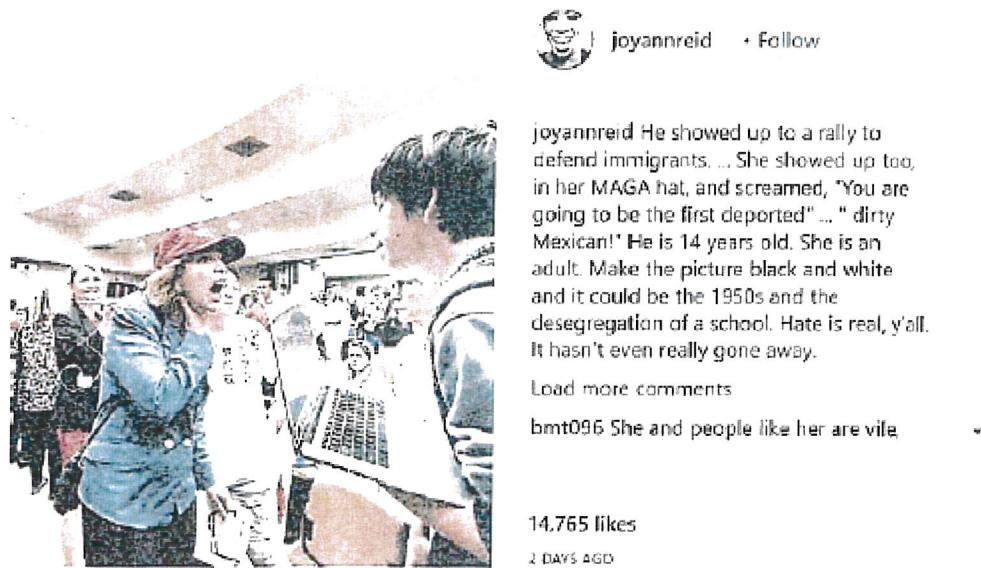
Neera Tanden @neeratanden

Alan Vargas 27 Jun 2018
Well this happened

33. Ms. La Liberte alleges that the Vargas tweet, “had not received much attention” until it was retweeted by Reid on June 29, 2018 and then went “viral.” (Amended Compl., ¶ 43). However, as the evidence sets forth above shows, this claim is demonstrably false. By the time of the Reid retweet, Ms. La Liberte and her business had already been identified repeatedly; the Resistance Northridge tweet, the Vargas tweet, and the Photograph had gone viral and been shared, retweeted, and commented on by many celebrities and activists; and comparisons between Simi Valley and Little Rock were already being made. Ms. Reid had nothing to do with any of this.

34. The evidence set forth above also irrefutably rebuts the allegations in the Amended Complaint that Ms. Reid caused the public to identify or “dox” Ms. La Liberte and reveal her personal information.

35. On the evening of June 29, 2018, Reid published an Instagram post in which she republished the Photograph and the gist of what Vargas and countless others said and described about the hate shown at the Council Meeting (the “Instagram Post”). The Instagram Post reads:



36. This is the first publication that Plaintiff maintains is actionable. La Liberte also contends that this is the first publication anywhere that identifies Ms. La Liberte as making the racist slurs. (Amended Compl., ¶ 49). As all of the evidence set forth above and in the Hoffman Affidavit shows, this allegation is demonstrably false. Ms. Hoffman has identified at least 8 publications, including the van der Velde tweet set forth above, where individuals said that Ms. La Liberte made the racial slurs and over 150 other individuals who accused La Liberte of racism before Ms. Reid's Instagram Post. See Hoffman Aff., ¶¶ 13-15, Exs. A & B. This is in addition to the Vargas tweet, which also “puts the words in La Liberte’s mouth,” by tweeting the Photograph, which prominently features Ms. La Liberte, along with a caption “this woman needs to be put on blast.” (emphasis added).

37. Before, at and around the Instagram Post, the Vargas tweet continued to go viral, which again had nothing to do with Ms. Reid. On June 29, 2018 at 8:11 p.m. Soledad O’Brian of CNN retweeted the Vargas tweet and stated:



Soledad O'Brien 
@soledadobrien

Ugh. These American racists. But this kid--good gor him.
[twitter.com/thealanvargas/...](https://twitter.com/thealanvargas/)

9:11 PM · Jun 29, 2018 · Twitter for iPhone

2.8K Retweets 6.2K Likes



38. On June 30, 2018 at 4:03 a.m. the journalist, cultural critic and television personality Touré Neblett tweeted his **190,000** followers:



Touré 
@Toure

In the picture below you see an adult woman screaming at a 14 yo child. She is Roslyn La Liberte, a MAGA zealot racist who runs RC Design Construction in California.
Wow. [twitter.com/TheAlanvargas/...](https://twitter.com/TheAlanvargas/)

5:03 AM · Jun 30, 2018 · TweetDeck

5.9K Retweets 5.5K Likes



39. Neblett's tweet had 6,000 retweets, including by the actress Rosanna Arquette and over 5,500 likes.

40. On June 30, 2018, CNN's Ana Navaro tweeted:



Ana Navarro 
@ananavarro

Oh look, here is today's racist dujour. Does she have a name, or should we just call her, #RedHatHarriet?
[twitter.com/thealanvargas/...](https://twitter.com/thealanvargas/)

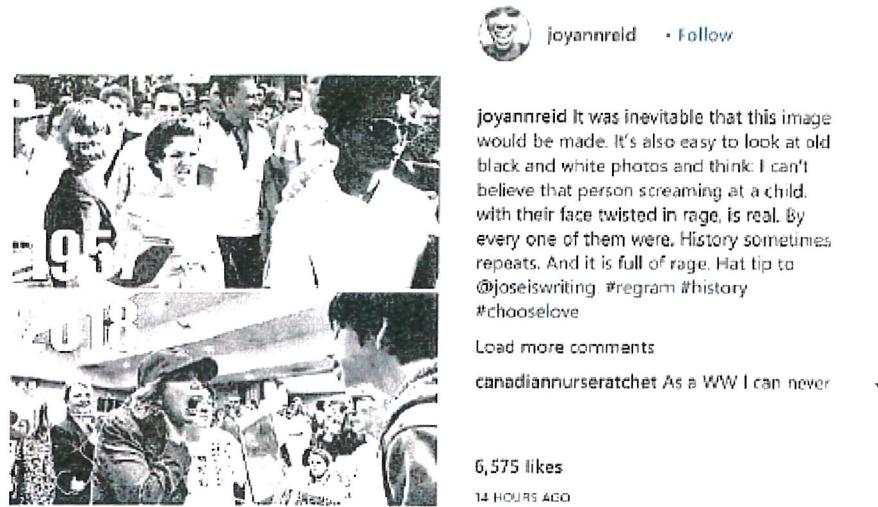
10:20 AM · Jun 30, 2018 · Twitter for iPad

9.6K Retweets 16.4K Likes



41. Ana Navaro has over 1.1 million twitter followers. Her tweet had at least 9,600 retweets and 16,400 likes.

42. On July 1, 2018, Ms. Reid also reposted on Instagram and Facebook the Photograph alongside one of the 1957 Little Rock photographs (the “Little Rock Repost”). (Amended Compl., ¶ 56). Reid then added the following comment, adding a “hat tip” to those who previously had posted the image:



43. The image on the Little Rock Repost was a republication or regram from another user of the Instagram website, Jose Antonio Vargas (@joseiswriting).



44. The Instagram Post and Little Rock Repost shall be referred to collectively at times hereafter as the “Publications”.

45. On July 2, 2018, based on a Fox News story she learned about, Ms. Reid deleted her Publications and issued the following apology:

It appears I got this wrong. My apologies to La Liberte and Joseph.
(Amended Compl., ¶ 58).



46. There nevertheless remain substantial questions about what La Liberte was screaming at the Council Meeting and whether they were racial slurs.

47. On July 3, 2018, Ruth Luevanos tweeted this about the Vargas Tweet:



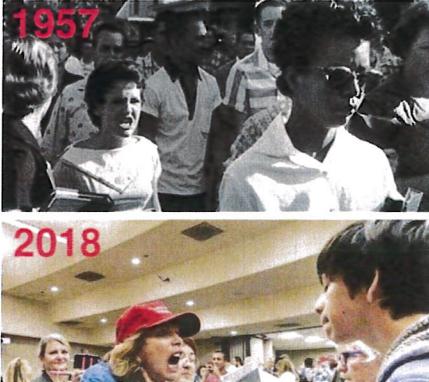
48. Joseph Luevanos's aunt, Dr. Norma Hernandez, tweeted this after Reid issued her apology:

Dr. Norma Hernandez
@Education_Maven

Follow

Replies to @JoyAnnReid

No apologies needed. Fox News misrepresented my nephew's story. This woman did shout at him and the exchange was NOT civil. Fox News cut out the most important part.



49. Alan Vargas also did not back down from his original post, tweeting:

Alan Vargas
@TheAlanVargas

Follow

There are those who say the tweet I posted is false and I'm a liar and blast me with the fox 11 story.

Well I just got in contact with the family of the 14 year old.

And the mother had this to say " everything he wrote was true and he can quote me on that"

/1

12:58 AM - 3 Jul 2018

13 Retweets 65 Likes



7 13 65



Alan Vargas @TheAlanvargas · Jul 3

Fox 11 misconstrued what he was trying to say to create their own narrative

▼

"Joey wants the whole story told"

"the irony is that both Alan and Joey were verbally attacked and questioned about their legal status because they were brown"

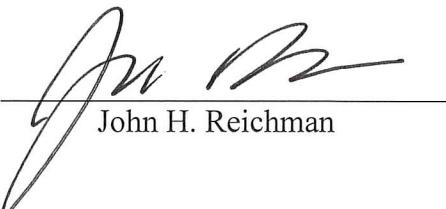
@JoyAnnReid

3

11

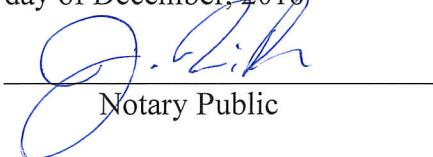
47

50. A rudimentary Google search by the Plaintiff or her attorneys would have revealed that numerous material allegations in the Amended Complaint are demonstrably false.



John H. Reichman

Sworn to before me this 17th
day of December, 2018



Notary Public

